

REMARKS

Claims 1-2, 7-10, 12-16, 18-19 and 21-31 are presented herein. Claim 3, rejected under 35 USC 112, has been canceled, along with independent claim 17 and several dependent claims. Claim 1 has been amended to include more particularly point out and distinctly claim applicant's invention; and many others of the presented claims have been amended to change dependency or correct grammatical or typographical errors.

All presented claims stand rejected as obvious under 35 USC 103(a) over Ahrens et al 2002/0010542 A1 in view of Baird 6,564,128. Applicant requests reconsideration of the rejection in view of his amendment and the following remarks.

Applicant's invention is a system and method for distributing software updates to the owners and operators of vehicles in which the software requiring the updates is installed. An example is a vehicle navigation system in which updated map information is provided periodically. The invention takes advantage of the fact that many, if not most, of the owners or operators of the vehicles have general purpose computers that can be used as recipient and/or load devices for the software update files. But the invention permits the distributor to limit loading of the software update file to a single intended vehicle, so that the owner or operator of the vehicle is not able to separately install or distribute the software updates to other vehicles. This is done by providing encryption based on a unique vehicle identifier: the vehicle identification number. With this encryption, the software update file is useless for any but the single intended vehicle.

Examiner admits that the references used in the rejection of the claims of this application do not disclose use of a vehicle identification number in the encryption of the software files, but claims it would be obvious to do so in view of the disclosure of encryption using a variety of other "identifying" data. But in this variety of "identifying data" disclosed in the prior art, there is not one

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that is directed to prevention of the vehicle owner or operator from installing the software updates in other vehicle equipped with the same software.

Ahrens et al, for example, specify in Examiner's cited passage from paragraph [0061]:

...the navigation system code, name of the geographical data set file, version of the geographical data set file, version of navigation system application program, subscription type, initial subscription start and end dates, warranty start and end dates, and cartridge ID serial number.

The "cartridge" can be identified as the storage device 76, by reference to the flow chart of Figure 8A and its accompanying text. The flow chart, in decision point 302, reads "cartridge inserted" while the accompanying text (paragraph [0060], establishes an equivalence between a "storage device" and a "cartridge" in the following statement:

Briefly, when a storage device is inserted into the drive 92 of the local repository, the main program 100 detects that a storage device has been inserted into the drive (FIG. 8A, Step 302).

Storage device (cartridge) 76 is the device in Ahrens et al that holds the software update in the vehicle, but it is removable from the vehicle and could be inserted in any vehicle. Or other cartridges could be inexpensively manufactured with the same cartridge ID for use in multiple vehicles. Thus, the cartridge ID does not prevent the software update from being used in multiple, unauthorized vehicles. It is not an equivalent of the other ID data disclosed in Ahrens for applicant's purposes; and the rejection under 35 USC 102(b) is thus traversed by applicant.

In addition, since Ahrens et al provided many examples of ID data in support of his their patent application but did not include a single example directed to preventing unauthorized software updates to a particular vehicle, one must conclude that this was either of no concern or was not obvious to them. In either case, it appears to applicant that it cannot be considered obvious without